

EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

APR 6 1971

OLC 71-0229

LEGISLATIVE REFERRAL MEMORANDUM

To: Legislative Liaison Officer  
Civil Service Commission  
Central Intelligence Agency ✓

Subject: Department of State draft bill "To amend the Foreign Service Act of 1946, as amended, to provide immediate annuities to officers selected-out from class 4."

Basic

The Office of Management and Budget would appreciate receiving the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with Budget Circular A-19.

- ( X ) To permit expeditious handling, it is requested that your reply be made within 30 days.
- ( ) Special circumstances require priority treatment and accordingly your views are requested by

Questions should be referred to Hilda Schreiber (395-4650 ) or to Victor Zafra (395-3736 ), the legislative analyst in this office.

*Naomi R. Sweeney*  
Naomi R. Sweeney, for  
Assistant Director for  
Legislative Reference

Enclosures

State Dept., OGC reviews completed. On file OMB release instructions apply.



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DEPARTMENT OF STATE

Washington, D.C. 20520

~~3/24/77~~

The Honorable  
Carl Albert  
Speaker of the House of  
Representatives

Dear Mr. Speaker:

Enclosed for consideration of the Congress is a draft bill "To amend the Foreign Service Act of 1946, as amended, to provide immediate annuities to officers selected-out from class 4."

The proposed amendment would provide an immediate annuity to an officer selected-out from class 4 in lieu of severance pay and the option of choosing a refund of retirement contributions or a deferred annuity commencing at age 60. Immediate annuities have been accorded since 1946 to officers selected-out from class 3 and above. These officers were granted this benefit because it was considered equitable to give immediate annuities based on length of service to officers selected-out of the Service in middle age. It was thought that they would have limited earning capacity and limited opportunity to gain other employment. The same justification applies today to officers in class 4 who are selected-out. This is especially true in view of the trend toward youth which has become evident over the last decade with those over 40 having more and more difficulty finding suitable employment.

A more detailed explanation and justification of the proposed amendment is enclosed with the draft bill.

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The Department has been informed by the Office of Management and Budget that there would be no objection from the standpoint of the President's program to the enactment of this legislation.

Sincerely,

David M. Abshire  
Assistant Secretary for  
Congressional Relations

Enclosures  
Draft Bill and  
Explanation

A BILL

To amend the Foreign Service Act of 1946, as amended, to authorize immediate annuities for certain officers selected-out, and for other purposes.

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That section 634 of the Foreign Service Act of 1946 (22 U.S.C. 1004) is amended as follows:

- (A) by striking out in subsection (a) "classes 1,2, or 3" and substituting therefor "classes 1, 2, 3 or 4";
- (B) by striking out in subsection (b) "classes 4, 5, 6 or 7" and substituting therefor "classes 5, 6 or 7"; and
- (C) by striking out in subparagraph (2) of subsection (b) "class 4 or 5" and substituting therefor "class 5".

Selection-Out Benefits

Present Legislation

Sec. 634. (a) Any Foreign Service officer in classes 1,2,[or 3] who is retired from the Service in accordance with the provisions of section 633 shall receive retirement benefits in accordance with the provisions of section 821.

(b) Any Foreign Service officer in classes [4]5,6 or 7 who is retired from the Service in accordance with the provisions of section 633 shall receive--

(1) one-twelfth of a year's salary at his then current salary rate for each year of service and proportionately for a fraction of a year, but not exceeding a total of one year's salary at his then current salary rate, payable without interest, from the Foreign Service Retirement and Disability Fund, in three equal installments on the first day of

Proposed Legislation

Sec. 634. (a) Any Foreign Service officer in classes 1,2,3 or 4 who is retired from the Service in accordance with the provisions of section 633 shall receive retirement benefits in accordance with the provisions of section 821.

(b) Any Foreign Service officer in classes 5,6 or 7 who is retired from the Service in accordance with the provisions of section 633 shall receive--

(1) one-twelfth of a year's salary at his then current salary rate for each year of service and proportionately for a fraction of a year, but not exceeding a total of one year's salary at his then current salary rate, payable without interest, from the Foreign Service Retirement and Disability Fund, in three equal installments on the first day of

Present Legislation

January following the officer's retirement and on the two anniversaries of this date immediately following: Provided, That in special cases, the Secretary may in his discretion accelerate or combine the installments; and

(2) a refund of the contributions made to the Foreign Service Retirement and Disability Fund, with interest as provided in section 841(a), except that in lieu of such refund such officer, if he has at least five years of service credit toward retirement under the Foreign Service Retirement and Disability System, excluding military or naval service that is credited in accordance with the provisions of section 851 or 852(a), may elect to receive retirement benefits on reaching the age of sixty in accordance with the provisions of section 821. In the

Proposed Legislation

January following the officer's retirement and on the two anniversaries of this date immediately following: Provided, That in special cases, the Secretary may in his discretion accelerate or combine the installments; and

(2) a refund of the contributions made to the Foreign Service Retirement and Disability Fund, with interest as provided in section 841(a), except that in lieu of such refund such officer, if he has at least five years of service credit toward retirement under the Foreign Service Retirement and Disability System, excluding military or naval service that is credited in accordance with the provisions of section 851 or 852(a), may elect to receive retirement benefits on reaching the age of sixty in accordance with the provisions of section 821. In the

Present Legislation

event that an officer who was separated from class [4 or] 5 and who has elected to receive retirement benefits dies before reaching the age of sixty, his death shall be considered a death in service within the meaning of section 832. In the event that an officer who was separated from class 6 or 7 and who has elected to receive retirement benefits dies before reaching the age of sixty, the total amount of his contributions made to the Foreign Service Retirement and Disability Fund, with interest as provided in section 841 (a), shall be paid in accordance with the provisions of section 841(b).

Proposed Legislation

event that an officer who was separated from class 5 and who has elected to receive retirement benefits dies before reaching the age of sixty, his death shall be considered a death in service within the meaning of section 832. In the event that an officer who was separated from class 6 or 7 and who has elected to receive retirement benefits dies before reaching the age of sixty, the total amount of his contributions made to the Foreign Service Retirement and Disability Fund, with interest as provided in section 841 (a), shall be paid in accordance with the provisions of section 841(b).

EXPLANATION

The proposed amendment would provide immediate annuities to officers selected-out from class 4 in lieu of severance pay and the option of choosing a refund of retirement contributions or a deferred annuity commencing at age 60.

The Foreign Service personnel system includes a promotion-up or selection-out program which is similar to that long in effect for Armed Forces personnel. This is a system of compulsory retirement of officers who either remain in class without promotion for a specified period or fail to maintain the standard of performance required of officers in their class. Selection-out is applicable to Foreign Service officers, Foreign Service information officers and Foreign Service Reserve officers with unlimited tenure. However, it is not expected that very many in the latter category will be selected-out within the next few years because appointments to this new category, established by the Act of August 20, 1968, were not made in any volume prior to this year. The Department and USIA consider retirement by selection-out to be generally comparable to an honorable discharge from the Armed Services. Separations for unsatisfactory performance or for other cause are effected under other provisions of the Foreign Service Act.

The selection-out principle provides a means of separating officers who fail to meet a high standard of performance and capability in comparison with other officers of the same class.



The retirement of those incapable of advancing in a highly competitive service provides advancement opportunities for better qualified officers and therefore helps maintain a young, vigorous career officer corps.

Although selection-out is helpful to the maintenance of an efficient Foreign Service, it works a hardship on personnel affected. This is especially true in a case when an officer is abruptly returned to the United States for separation after a number of years abroad. Often without the benefit of personal contacts in the United States, he must reestablish a home for his family and complete the education of his children. Without immediate prospects for other employment, this can be a traumatic experience.

In recognition of these difficulties, immediate annuities were provided in 1946, when the selection-out system was first established, to officers selected-out from class 3 or above. These officers were accorded this benefit because it was considered equitable to give immediate annuities based on length of service to middle-aged employees who were selected-out. It was thought that they would have limited earning capacity and limited opportunity to gain other employment. The same justification applies today to officers in class 4 who are selected-out. This is especially true in view of the general trend toward youth

which has occurred over the last decade with those over the age of 40 having more and more difficulty finding suitable employment.

Officers in class 5 or below are generally below 40 and usually have less difficulty finding other employment. However, those selected-out from class 4 and above are usually above age 40 and have difficulty finding other suitable employment. Nearly one-half of the class 4 officers reached for selection-out are age 50 or over and have at least 20 years of service so that they can qualify for immediate annuities by applying for voluntary retirement. The balance are in their 40's and are not eligible for immediate annuities.

This amendment would authorize an immediate annuity equal to 2% of "high-3" average salary for each year of service; in other words, an annuity of 40% of average salary after 20 years service. This would be a modest annuity, but it would be a guaranteed source of income that an officer could supplement to provide adequately for his family's needs.

Provision for such an annuity would also enable the Department to administer implementation of the selection-out program strictly on merit principles by removing compassionate factors from consideration.

Because of the difficulties faced by class 4 officers being selected-out, the Department several years ago inaugurated a policy of permitting officers approaching maximum time in class and within 2 years of completing eligibility for voluntary retirement (age 50 with 20 years of service), who can be appropriately assigned, to transfer to the Foreign Service staff so that they can continue under the Foreign Service retirement system and attain eligibility for an annuity.

The Department has recently decided not to make any more Foreign Service staff officer appointments and to utilize instead the authority of P.L. 90-494 of August 20, 1968 to appoint persons as Foreign Service Reserve officers with unlimited tenure. It would be inconsistent with this policy to continue to convert Foreign Service officers to Foreign Service staff officers.

The accompanying chart shows that 95 Foreign Service officers in class 4 were separated during the last 5 years after having been identified for selection-out: 46 were eligible for immediate annuities, 23 transferred to the Foreign Service staff and 26 were separated from the Department without entitlement to immediate annuities. This latter group of 26 officers would have benefited if this proposed amendment had been in effect when they were separated. Their average age at separation was 45 and they had an average of 22 years of service.

If this amendment is approved, it is estimated that an

average of 14 officers per year (10 from the Department and 4 from USIA) will be selected-out from class 4 and become entitled to annuities who would otherwise be entitled only to severance payments and to deferred annuity rights. This would increase the normal cost of the Foreign Service retirement system by 0.5% or by \$540,000 per year at the present payroll level. Also, the unfunded liability would be increased by \$7 million. To amortize this amount over 30 years as required by section 865 of the Foreign Service Act would require an annual appropriation of \$445,000. The total annual cost--normal cost plus annual amortization payment on the unfunded liability--would be \$985,000.

FSO-4's Separated During Past 5 Years  
After Being Identified for Selection-Out

1.	Separated from Department without immediate annuity		26
a.	Employed elsewhere below equivalent salary	9	
b.	Employed elsewhere at equivalent salary or at unknown salary	4	
c.	Employment status unknown	7	
d.	Seeking employment	6	
2.	Transferred to FSS		23
3.	Retired on immediate annuity		46
a.	50/20 eligibility	37	
b.	Disability	6	
c.	Mandatory for age	3	
	Total		95